

REPORT OF THE COMMITTEE ON ZONING

Charles K. Djou, Chair; Rod Tam, Vice-Chair
Romy M. Cachola, Ann H. Kobayashi, Barbara Marshall, Members

Committee Meeting Held
January 13, 2004

Honorable Donovan Dela Cruz
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning, to which was referred Resolution 03-353 entitled:

"RESOLUTION AUTHORIZING AN EXTENSION OF TIME FOR THE COMMENCEMENT OF CONSTRUCTION OF THE OHANA OLA O KAHUMANA, PHASE II, TRANSITIONAL HOUSING PROJECT AT WAIANAE, OAHU, TAX MAP KEYS: 8-6-6: 1 and por. 2.,"

as transmitted by Departmental Communication No. 1143 from the Department of Planning and Permitting (DPP), dated December 31, 2003, reports as follows:

The purpose of Resolution 03-353 is to extend the deadline for the commencement of construction for the Ohana Ola O Kahumana, Phase II, Transitional Housing Project (the "Project") to June 30, 2004.

The Project is a transitional housing project for the homeless. The Project's developer is Alternative Structures International (the "Applicant"). Resolution 00-198, CD1, authorized certain exemptions from planning, zoning and construction standards pursuant to HRS Chapter 201G for the Project. Resolution 00-198, CD1, also required that construction of the Project commence within 24 months of the date of that resolution's adoption. In Departmental Communication No. 1143, the DPP stated that an unexpected high construction bid delayed the construction of the Project beyond the 24-month deadline, but that the necessary funds for construction have now been secured.

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON _____

COMMITTEE REPORT NO. 5

REPORT OF THE COMMITTEE ON ZONING

Charles K. Djou, Chair; Rod Tam, Vice-Chair
Romy M. Cachola, Ann H. Kobayashi, Barbara Marshall, Members

Committee Meeting Held
January 13, 2004
Page 2

Your Committee is concerned about the timeliness of this request for an extension of time. Resolution 00-198, CD1, states that "this Resolution shall be void unless construction of the Project commences no later than 24 months after the approval date of this Resolution." As Resolution 00-198, CD1, was adopted on October 18, 2000, the deadline for commencement of construction was October 18, 2002.

At your Committee's meeting on January 13, 2004, a Deputy Corporation Counsel stated that his Department had two concerns about approval of the extension of time. First, a significant amount of time had passed since the deadline, and the Deputy stated that granting the extension would establish a negative precedent--i.e., holders of other land development approvals who failed to meet the deadlines imposed by the approvals would cite this resolution to support their belated requests for extensions of time.

Second, because of the amount of time since the approval of Resolution 00-198, CD1, changed conditions may warrant a new review of the appropriateness of approval.

The Deputy stated that a preferred course of action would be to have the Applicant reapply for the 201G exemptions. In response to questions, a representative of the DPP stated that if the Applicant is required to reapply for the 201G exemptions, it would take a minimum of two to three months for the DPP to process the application.

A representative of the Applicant apologized for the delay in the request for the extension of time. He said that he had been engaged in obtaining the necessary funding for the Project. He said that the Applicant has now succeeded in obtaining a total of \$7.5 million in funding for the Project, including Federal funds and a grant from the Harry and Jeannette Weinberg Foundation. He further stated that if the Applicant is required to reapply for the 201G exemptions, a portion of the Federal funding may lapse. This concern was echoed by the Director of the Department of Community Services.

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON _____

COMMITTEE REPORT NO. 5

REPORT OF THE COMMITTEE ON ZONING

Charles K. Djou, Chair; Rod Tam, Vice-Chair
Romy M. Cachola, Ann H. Kobayashi, Barbara Marshall, Members

Committee Meeting Held
January 13, 2004
Page 3

Your Committee finds that this is a meritorious project, and that the need for transitional housing projects for the homeless has only increased since the approval of Resolution 00-198, CD1. However, your Committee remains concerned about approving an extension of time well after the expiration of the deadline.

In response to questions by your Committee, the Deputy Corporation Counsel stated that if the Committee desires to approve the extension, then at a minimum the resolution should be amended to include certain specific findings relating to the circumstances of the Project.

Your Committee has amended the Resolution in accordance with the Deputy's recommendations. The amendments include:

- A. A new WHEREAS clause noting the potential lapse of Federal funds;
- B. A new WHEREAS clause stating the Council's recognition of the continuing and increasing need for transitional housing of this type;
- C. A new WHEREAS clause stating that the preliminary plans and specifications for the Project, which were reviewed by the Council prior to the adoption of Resolution 00-198, CD1, have not changed;
- D. Amending the second BE IT FURTHER RESOLVED clause to state that the Project has not changed and also to ratify and confirm the findings in Resolution 00-198, CD1; and
- E. Adding a third BE IT FURTHER RESOLVED clause stating that the authorization for an extension of time is an extraordinary action by the Council under the specific, narrow, and exceptional circumstances of this situation, and setting forth some of those circumstances.

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON _____

COMMITTEE REPORT NO. 5

REPORT OF THE COMMITTEE ON ZONING

Charles K. Djou, Chair; Rod Tam, Vice-Chair
Romy M. Cachola, Ann H. Kobayashi, Barbara Marshall, Members

Committee Meeting Held
January 13, 2004
Page 4

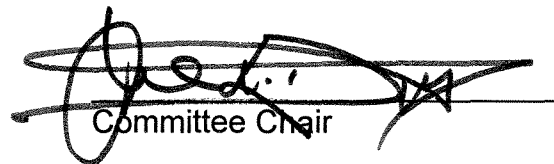
Your Committee also has made minor technical and nonsubstantive amendments to the Resolution.

Your Committee desires to expressly state that it is recommending approval of the extension of time only under the specific and narrow circumstances of this case. These circumstances include the fact that a nonprofit entity is involved in a meritorious project, that there is a continuing need for transitional housing in the community, and that the project may be threatened by a lapse of funding if it is required to reapply for the 201G exemptions.

Approval of this resolution should not be viewed as a precedent by other holders of land development approvals. Absent equally compelling circumstances, your Committee will not be disposed to recommend approval of belated requests for extension of deadlines.

Your Committee on Zoning is in accord with the intent and purpose of Resolution 03-353, as amended herein, and recommends its adoption in the form attached hereto as Resolution 03-353, CD1. (Ayes: Djou, Cachola, Kobayashi, Marshall, Tam - 5; Noes: None.)

Respectfully submitted,



Committee Chair

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON JAN 28 2004

COMMITTEE REPORT NO. 5



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 03-353, CD1

RESOLUTION

AUTHORIZING AN EXTENSION OF TIME FOR THE COMMENCEMENT OF CONSTRUCTION OF THE OHANA OLA O KAHUMANA, PHASE II, TRANSITIONAL HOUSING PROJECT AT WAIANAE, OAHU, TAX MAP KEYS: 8-6-6: por. 1 and por 2.

WHEREAS, the City Council, by adoption of Resolution 00-198, CD1, authorized certain exemptions from planning, zoning, and construction standards pursuant to Sections 46-15.1 and 201G-118 of the Hawaii Revised Statutes ("HRS") for the Ohana Ola O Kahumana, Phase II, Transitional Housing Project (the "Project"), located on a portion of a 12.83-acre lot located at 88-443 Kuwale Road, Waianae, Oahu (Tax Map Key 8-6-6: por 1), and a portion of a lot at 86-660 Lualualei Homestead Road, Waianae, Oahu (Tax Map Key 8-6-6: por 2); and

WHEREAS, Resolution 00-198, CD1, required that commencement of construction occur within 24 months from date of approval of Resolution 00-198, CD1; and

WHEREAS, unanticipated construction costs have delayed the commencement of construction of the Project; and

WHEREAS, Alternative Structures International, the developer of the Project, has successfully raised additional funds and reduced project costs to allow construction of the Project to proceed;

WHEREAS, the developer of the Project has represented that Federal funds obtained for the Project will lapse if there are any further delays to the commencement of construction; and

WHEREAS, the Council recognizes the continuing and increasing need for transitional housing of this type and the services it provides to the City; and

WHEREAS, the preliminary plans and specifications for the Project, which were reviewed by the Council prior to the adoption of Resolution 00-198, CD1, have not changed; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the deadline for the commencement of construction of the Ohana Ola O Kahumana, Phase II, Transitional Housing Project, as stated in Resolution 00-198, CD1, is hereby extended to June 30, 2004; and

BE IT FURTHER RESOLVED that the Director of Planning and Permitting is authorized to execute the amendment to agreement substantially in the form which is marked Exhibit A, attached to this Resolution and made a part of it, pursuant to the



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 03-353, CD1

RESOLUTION

terms, conditions, and provisions approved as to form and legality by the Corporation Counsel as being necessary, advisable, or desirable for the purpose of carrying out this Resolution; and

BE IT FURTHER RESOLVED that the Project has not changed; therefore, the findings and exemptions authorized under Resolution 00-198, CD1, are ratified and confirmed; and

BE IT FURTHER RESOLVED that this authorization for an extension of time is an extraordinary action by the Council under the specific, narrow, and exceptional circumstances of this situation, including, but not limited to, a nonprofit entity involved in a meritorious project, the lapse of Federal funding for any further delays, and the clearly identifiable need for the type of housing proposed by the developer; and

BE IT FINALLY RESOLVED by the Council of the City and County of Honolulu that the clerk be, and is hereby directed to transmit copies of this Resolution to the Director of Planning and Permitting, Director of Community Services and Alternative Structures International.

INTRODUCED BY:

Donovan Dela Cruz (BR)

DATE OF INTRODUCTION:

December 31, 2003

Honolulu, Hawaii

Councilmembers

EXHIBIT A

AMENDMENT TO AGREEMENT

OHANA OLA O KAHUMANA, PHASE II, TRANSITIONAL HOUSING PROJECT

1. DATE OF THIS AGREEMENT

2. PARTIES; NOTICES

City and County of Honolulu
Honolulu Hale
530 South King Street
Honolulu, Hawaii 96813

With copy to: Director
Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

Alternative Structures International
86-660 Lualualei Homestead Road
Waianae, Hawaii 96792

3. DEFINITIONS

- A. "City" means the City and County of Honolulu.
- B. "Developer" means Alternative Structures International.
- C. "City Council" means the City Council of the City and County of Honolulu.
- D. "Project" means 34 units in 17 two-family detached dwellings, a meeting facility (with kitchen) for educational and life-skills training classes for residents and large group meetings, accessory offices, a day-care facility for resident children, and either two single-family dwellings or one two-family detached dwellings for future staff housing. The Project will provide 59 parking stalls on site for the residents' use.
- E. "Agreement" means that certain agreement executed by the City and Developer dated March 7, 2001 which set forth the terms and conditions under which the Developer will develop the Project.

4. RECITALS

- A. The City Council, by adoption of 00-198, CD1, granted certain exemptions from planning, zoning and construction standards pursuant to Chapter 201G, Hawaii Revised Statutes for the Project.
- B. The City Council, by adoption of Resolution No. _____ on, _____ extended the time for the commencement of construction for the Project to June 30, 2004.
- C. The Agreement provided for its amendment by a written instrument executed by the City and Developer.

5. AGREEMENT AMENDMENT

Paragraph A.(4)(b) of the Agreement is hereby deleted and replaced in its entirety with the following:

"(b.) the developer is required to rent 100% of the units at affordable rates. 100% of the units shall be rented to households earning 50% or below of Oahu's median income as determined by the United States Department of Housing and Urban Development. Construction of the Project shall commence on or before June 30, 2004."

All other provisions of the Agreement are ratified and confirmed.

APPROVED AS TO CONTENT:

ALTERNATIVE STRUCTURES
INTERNATIONAL

By _____
for Director of Planning and
Permitting

By: _____
Its:

APPROVED AS TO FORM AND
LEGALITY:

CITY AND COUNTY OF HONOLULU

By: 
Deputy Corporation Counsel

By _____
Its Director of Planning and
Permitting

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

On this _____ day of _____, 200_, before me

appeared _____ to me personally known, who, being by

me duly sworn, did say that _____ is the

_____ of the ALTERNATIVE STRUCTURES

INTERNATIONAL, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said that said instrument was signed on behalf of said corporation by authority of its Board of Directors and the said

_____ acknowledged the instrument to be the free act and deed of said corporation.

Notary Public, State of Hawaii

My commission expires: _____

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this _____ day of _____, 200_, before me
appeared _____ to me personally known, who, being by
me duly sworn, did say that _____ is the
_____ of the City and County of Honolulu, a municipal
corporation, and that the seal affixed to the foregoing instrument is the corporate seal of
said corporation, and that said that said instrument was signed on behalf of said
corporation by authority of its Board of Directors and the said
_____ acknowledged the instrument to be the free act
and deed of said corporation.

Notary Public, State of Hawaii

My commission expires: _____